

REMARKS / ARGUMENTS:

Claims 7 and 45 have been canceled without prejudice and may be reasserted in this or an associated application.

Claims 1, 12 and 36 have been amended by incorporating the description of the polymer that is used in the particles, compositions, or methods of the invention that was previously described in claims 7 and 45, both of which have been canceled.

No new matter has been added.

Rejection of claims 1, 3 – 6, 8, 12 – 18, 36 – 38, 40 – 44 and 46 - 51 under 35 USC §103(a) as obvious over EP 0201214 to Kanda in view of EP 0 364 406 to Reuter and EP 0 004 758 to Tocker.

In the Action of July 5, 2005, The Office noted that claims 7 and 45 were objected to, but were not rejected. It is assumed that claims 7 and 45 are allowable upon redrafting to include the limitations of independent claims, and that step is taken in this paper.

The Applicant's previous arguments regarding the novelty and non-obviousness are reasserted here. In brief, it is maintained that as of the date of the present invention, only the present inventors knew how to produce or use a particle for controlled release of a triazole fungicide that was solid, generally spherical, and from 0.1 to 200 microns in size, and which included selected triazole fungicides dispersed in a matrix of selected polymers at a molecular level or as pockets containing a plurality of triazole molecules, and where the fungicide-to-polymer weight ratio is from about 1:99 to about 1:1.

The Office has used the present specification as a template to direct its search to find certain of the features of the present invention in various art references. It then argues that a motivation for the combination of these features is provided by the art. However, the Applicant maintains that without the guidance provided by the present specification, the state of the art at the time of the invention would not have made the claimed invention, taken as a whole, obvious to one of ordinary skill in the art. In particular, no teaching or suggestion is found in the prior art to produce or use a particle having the physical characteristics of the instant particle that contains a claimed triazole in a matrix of a claimed polymer. Accordingly, it is maintained that a *prima facie* case of

obviousness has not been made out and it is respectfully requested that the present ground of rejection be reconsidered and be withdrawn.

Request for reconsideration:

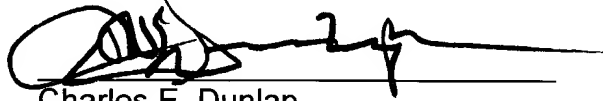
It is respectfully requested that the claims be amended as requested above and that the claims be passed to allowance. The Examiner is invited to call the undersigned attorney at the number given below for resolution of any remaining issues.

It is believed that no fee is required for the present response. However, if a fee is required, the Office is authorized to charge the fee to Deposit Account Number 50-2548.

Respectfully requested,
NELSON MULLINS RILEY & SCARBOROUGH

September 28, 2005

Date

A handwritten signature in black ink, appearing to read 'Charles E. Dunlap', written over a horizontal line.

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